

Y 03 MAY 27 AM 8:23
ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

Docket No. TSCA-07-2003-0160

The Complainant, by delegation from the Administrator of the United States Environmental Protection Agency (EPA), and the Regional Administrator, EPA, Region 7, is the Director, Air, RCRA, and Toxics Division, EPA, Region 7. The Respondents are Gerhard E. Mueller and Lillian Mueller, 2820 Shenandoah, St. Louis, Missouri 63104.

Complainant's Allegations

Complainant has reason to believe that Respondents have violated Section 409 of TSCA, 15 U.S.C. § 2689, by failing to comply with the regulatory requirements of 40 C.F.R. Part 745, Subpart F - Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property ("Disclosure Rule"), which was promulgated pursuant to Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d. Specifically, Complainant alleges:

Count I

1. Gerhard E. Mueller and Lillian Mueller ("Respondents") are individual persons.
2. For all periods of time relevant to the violation alleged herein, Respondents owned a residential property located at 4616 Oregon, St. Louis, Missouri (the "Property").
3. The Property was constructed prior to 1978.
4. The Property is "target housing" as defined by 40 C.F.R. § 745.103.
5. On or about November 11, 1999, Respondents entered into a lease agreement (the "Contract") with Ralph Meckfessel and Bonnie Weidenhoffer for the lease of Respondents' Property for residential use.
6. As a result of the Contract described in Paragraph 5 above, Respondents became the "lessors," and Ralph Meckfessel and Bonnie Weidenhoffer became the "lessees," as those terms are defined by 40 C.F.R. § 745.103.
7. Ralph Meckfessel and Bonnie Weidenhoffer subsequently moved into the Property.
8. Pursuant to 40 C.F.R. § 745.107(a)(1), before the lessee is obligated under any contract to lease target housing, the lessor of target housing must provide the lessee with an EPA-approved lead hazard information pamphlet.

9. Respondents did not provide an EPA-approved lead hazard information pamphlet to Ralph Meckfessel and Bonnie Weidenhoffer prior to being obligated under the Contract described in Paragraph 5 above.

10. Respondents' failure to provide an EPA-approved lead hazard information pamphlet to Ralph Meckfessel and Bonnie Weidenhoffer prior to being obligated under the Contract described in Paragraph 5 above is a violation of 40 C.F.R. § 745.107(a)(1) and Section 409 of TSCA.

CONSENT AGREEMENT

1. For the purposes of this proceeding, Respondents admit that Complainant has jurisdiction to bring this action pursuant to the statutory and regulatory provisions cited above, and neither admit nor deny Complainant's factual allegations above.

2. Respondents waive their right to contest Complainant's allegations above, and their right to appeal the Final Order accompanying this Consent Agreement.

3. Respondents and Complainant agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

4. Respondents certify by the signing of this Consent Agreement and Final Order that to the best of Respondents' knowledge, they are presently in compliance with all requirements of 40 C.F.R. Part 745, Subpart F - Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property ("Disclosure Rule").

5. Respondents consent to the issuance of the Final Order hereinafter recited and consent to the payment of a civil penalty in the amount of Five Hundred Dollars (\$500) to be paid within forty-five (45) days of the effective date of the Final Order.

6. Respondents understand that their failure to timely pay any portion of the penalty stated in Paragraph 5 above may result in the commencement of a civil action in Federal District

Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall accrue thereon at the rate determined by the Secretary of the Treasury (currently two percent (2%) per annum for the period January 1, 2003, through December 31, 2003) on the unpaid balance until such civil penalty and any accrued interest are paid in full. Additionally, as provided by 31 U.S.C. § 3717(e)(2), a six percent (6%) per annum penalty (late charge) may be assessed on any amount not paid within ninety (90) days of the due date.

Final Order

Pursuant to the provisions of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2601 *et seq.*, and based upon the information set forth in the Consent Agreement accompanying this Final Order, IT IS HEREBY ORDERED THAT:

1. Respondents shall pay a civil penalty of Five Hundred Dollars (\$500) due within forty-five (45) days of the effective date of the Final Order. Such payment shall identify the Respondents by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and remitted to:

EPA-Region 7
c/o Mellon Bank
P.O. Box 360748M
Pittsburgh, Pennsylvania 15251.

2. A copy of the check must be sent simultaneously to each of the following:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 7
901 N. 5th Street
Kansas City, Kansas 66101; and

Deanna Smith
Office of Regional Counsel
U.S. Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101.

3. Respondents and Complainant shall bear their own costs and attorneys' fees incurred as a result of this matter.

RESPONDENTS:

GERHARD E. MUELLER AND LILLIAN MUELLER
ST. LOUIS, MISSOURI

Date 5/10/2003

By

Gerhard E. Mueller
Gerhard E. Mueller

Date _____

By

Lillian Mueller
Lillian Mueller

COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date 5/19/03

By

William A. Spratlin
William A. Spratlin

Director

Air, RCRA, and Toxics Division

Date 5/21/03

By

Becky Ingrum Dolph
Becky Ingrum Dolph

Deputy Regional Counsel

IT IS SO ORDERED. This Final Order shall become effective immediately.

Robert L. Patrick
Robert L. Patrick

Regional Judicial Officer

Date

May 27, 2003

IN THE MATTER OF Gerhard E. Mueller and Lillian Mueller, Respondents
Docket No. TSCA-07-2003-0160

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

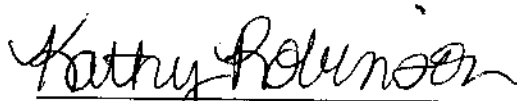
Copy hand delivered to
Attorney for Complainant:

Becky Ingrum Dolph
Deputy Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by U.S. Certified Mail,
Return Receipt Requested, to:

Gerhard E. Mueller and/or
Lillian Mueller
2820 Shenandoah
St. Louis, Missouri 63104

Dated: 5/27/03


Kathy Robinson
Regional Hearing Clerk